

**INTERGOVERNMENTAL AGREEMENT
BETWEEN
WASHINGTON COUNTY AND THE CITY OF TIGARD**

**FOR TRANSPORTATION AND UTILITY IMPROVEMENTS ON
SW SCHOLLS FERRY ROAD (SW ROY ROGERS ROAD TO SW BARROWS ROAD)**

THIS INTERGOVERNMENTAL AGREEMENT is entered into between Washington County, a political subdivision of the State of Oregon, acting by and through its elected officials, hereinafter referred to as "COUNTY"; and the City of Tigard, a municipal corporation, acting by and through its City Council, hereinafter referred to as "CITY."

RECITALS

1. WHEREAS, ORS 190.010 authorizes agencies to enter into intergovernmental agreements for the performance of any or all functions and activities that a party to the agreement has the authority to perform; and
2. WHEREAS, COUNTY has an approved and funded Major Streets Transportation Improvement Program project to construct road improvements to SW Scholls Ferry Road, a County Arterial Street, from SW Roy Rogers Road to SW Barrows; and
3. WHEREAS, CITY as the designated public service provider, maintains certain public infrastructure within the Rights-of-Way of SW Scholls Ferry Road and SW Barrows Road under permit from COUNTY; and
4. WHEREAS, CITY desires COUNTY to have water utility improvement work completed within and in conjunction with the road improvement project limits along SW Scholls Ferry Road; and
5. WHEREAS, this agreement will result in considerable cost savings to CITY and COUNTY by coordination of roadway and infrastructure improvements. Coordination with the COUNTY project improvements listed above is a benefit to the community by reducing costs, the number of road traffic restrictions and length of time needed to accomplish the work identified; and
6. WHEREAS, under such authority, it is the desire of the COUNTY and CITY to enter into such an Agreement to cooperate in the design and construction of the improvements to the water line as part of the road improvements to SW Scholls Ferry Road, with the allocation of responsibilities as detailed below; and
7. WHEREAS, it is the desire of COUNTY and CITY to enter into his agreement to allocate responsibilities for funding, design and construction of all the above-described improvements.

AGREEMENT

NOW, THEREFORE, the premise being in general as stated in the foregoing recitals, and in consideration of the terms, conditions and covenants as set forth below, the parties hereto agree as follows:

1. PROJECT DESCRIPTION

- 1.1 The COUNTY road project improvements will include: road widening, curbs, sidewalks, bike lanes, street lighting, drainage, landscaping, traffic control, water quality improvements and all necessary permitting on SW Scholls Ferry Road between SW Roy Rogers Road to SW Barrows Road, hereinafter referred to as "ROAD PROJECT" as shown generally on the attached Exhibit A.
- 1.2 The CITY project work includes installation of approximately 2200 feet of 18-inch water line, installation of approximately 40 feet of 12-inch waterline, valves, fire hydrants, water testing stations and respective appurtenances, hereinafter collectively referred to as "CITY PROJECT" as shown generally on the attached Exhibit B.
- 1.3 The ROAD PROJECT and the CITY PROJECT are referred to herein as the "PROJECT".

2. COUNTY OBLIGATIONS

- 2.1 Upon execution of this agreement, COUNTY shall assign a project manager to be responsible for oversight of the PROJECT during the design, bidding and construction phase of the PROJECT and provide timely coordination with CITY.
- 2.2 COUNTY shall perform, or cause to be performed, all actions necessary for the design and construction of the PROJECT including project management, design and construction engineering, regulatory and land use permits and approvals, public information, contract administration, and construction management. COUNTY shall coordinate the design of, advertise for, award, and administer the construction contract for the PROJECT.
- 2.3 COUNTY shall incorporate the plans, specifications, and bid items provided by CITY for the CITY PROJECT, into final bid documents and bid schedule for PROJECT.
- 2.4 COUNTY will provide CITY five (5) working days following bid opening to review and approve the bid results for the CITY PROJECT. COUNTY may award the construction contract, including the CITY PROJECT bid items, unless the CITY informs COUNTY in writing, prior to award, that it wishes to cancel its construction as part of the PROJECT.
- 2.5 COUNTY shall obtain CITY approval for any proposed design or other changes to the CITY PROJECT WORK.

- 2.6 COUNTY shall require all contactors to include “City of Tigard, its elected and appointed official, officers, agents, employees and volunteers” as additional insured or insurance coverage required for construction work performed in completing the PROJECT.
- 2.7 COUNTY shall require all contractors to provide worker’s compensation coverage pursuant to ORS for all subject workers performing work in connection with this Agreement.
- 2.8 COUNTY shall establish a unique project number and compile accurate cost accounting records, which shall be available for examination by CITY upon reasonable notice and retain said records as established by ORS.
- 2.9 COUNTY shall provide a final cost accounting for the CITY PROJECT, including all internal and external costs, to the CITY within 45 days of final acceptance and payment to the contractor.
- 2.10 COUNTY shall provide written notice that the CITY PROJECT is complete and obtain CITY’S final acceptance prior to final lift paving of the PROJECT and prior to releasing bonds or issuing final payment to the contractor.
- 2.11 COUNTY shall provide the CITY as-built construction drawings for the PROJECT within sixty (60) days after work is deemed complete and acceptable by the COUNTY. The as-built drawings shall be provided in hardcopy on Mylar, 11x17 inches, and AutoCAD digital format.

3. CITY OBLIGATIONS

- 3.1 Upon execution of this Agreement, CITY shall assign a project manager to be responsible for coordination of the PROJECT with COUNTY.
- 3.2 CITY shall provide to COUNTY biddable construction documents including construction plan sheets, specifications, and bid schedule for the CITY PROJECT. The CITY PROJECT bid items shall be incorporated into the overall Project Bid Schedule and labeled as Bid Schedule **xxx**.
- 3.3 CITY shall provide timely responses to bidder’s questions about the CITY PROJECT during advertisement of the Project. If necessary, provide COUNTY with addendum no later than four (4) calendar days prior to the Project bid opening.
- 3.4 CITY shall provide construction inspection of the Schedule **XXXX** bid items including review and approval of shop drawings, submittals, and onsite inspection to determine compliance with the contract documents. CITY’s onsite inspections of the Schedule **xxx** bid items shall be coordinated through COUNTY’S lead Project inspector. CITY’s onsite inspector shall be onsite and responsible for enforcing all applicable specifications during all CITY PROJECT work, including but not limited to night work, accommodations for public traffic and work zone traffic control. CITY

has the right to approve the final acceptance of the CITY PROJECT.

- 3.5 CITY shall have the right to approve any design or other change to the CITY PROJECT WORK portions of the PROJECT.
- 3.6 CITY shall provide timely reviews and comments on COUNTY design documents and timely response to other PROJECT information requests.
- 3.7 CITY shall coordinate and participate with COUNTY on any disagreements, disputes, delays or claims related to or as a result of the CITY PROJECT.
- 3.8 As construction work upon the PROJECT is performed, COUNTY shall, on a quarterly basis, prepare and submit construction invoices to the CITY for the construction of the CITY PROJECT work. In addition to CITY PROJECT work bid items, non-construction costs of COUNTY services at a flat rate of 15% of the CITY PROJECT WORK construction costs shall be charged and include the following: proportional cost of applicable lump sum contracts items (i.e. mobilization and erosion control), extra work required for the CITY PROJECT WORK and the cost of COUNTY services including project construction management, surveying, inspection and construction contract administration.

Estimated construction costs are:

Water Line Improvements	\$700,000
Non-construction Costs of County Services (15%)	\$105,000
Estimated Total Construction Cost	\$805,000

- 4.1 CITY and COUNTY understand that the construction costs outlined above are estimates and are used to determine project budgets and estimated payment amounts used within this agreement. Final costs will be based on the actual contract amount of the schedule of prices and quantities used and installed. Final payments made by the CITY to the COUNTY related to this PROJECT shall be based on actual design invoices, actual bid prices, construction quantities and non-construction costs.

5. GENERAL PROVISIONS

5.1 LAWS OF OREGON

The parties shall comply with all applicable laws and regulations regarding the handling and expenditure of public funds. This Agreement shall be construed and enforced in accordance with the laws of the State of Oregon. All relevant provisions required by ORS Chapter 279A and 279C to be included in public contracts are incorporated and made a part of this Agreement as if fully set forth herein.

5.2 DEFAULT

Time is of essence in the performance of the Agreement. Either party shall be deemed to be in default if it fails to comply with any provisions of this Agreement. The non-defaulting party shall provide the other party with written notice of default and allow thirty (30) days within which to cure the defect.

5.3 INDEMNIFICATION

This Agreement is for the benefit of the parties only. Each party agrees to indemnify and hold harmless the other party, and its officers, employees, and agents, from and against all claims, demands and causes of actions and suits of any kind or nature for personal injury, death or damage to property on account of or arising out of services performed, the omissions of services or in any way resulting from the negligent or wrongful acts or omissions of the indemnifying party and its officers, employees and agents. To the extent applicable, the above indemnification is subject to and shall not exceed the limits of liability of the Oregon Tort Claims Act (ORS 30.260 through 30.300). In addition, each party shall be solely responsible for any contract claims, delay damages or similar items arising from or caused by the action or inaction of the party under this agreement.

5.4 MODIFICATION OF AGREEMENT

No waiver, consent, modification or change of terms of this Agreement shall be binding unless in writing and signed by both parties.

5.5 DISPUTE RESOLUTION

The parties shall attempt to informally resolve any dispute concerning any party's performance or decisions under this Agreement, or regarding the terms, conditions or meaning of this Agreement. A neutral third party may be used if the parties agree to facilitate these negotiations. In the event of an impasse in the resolution of any dispute, the issue shall be submitted to the governing bodies of both parties for a recommendation or resolution.

5.6 REMEDIES

Subject to the provisions in paragraph 5.5, any party may institute legal action to cure, correct or remedy any default, to enforce any covenant or agreement herein, or to enjoin any threatened or attempted violation of this Agreement. All legal actions shall be initiated in Washington County Circuit Court. The parties, by signature of their authorized representatives below, consent to the personal jurisdiction of that court.

5.7 EXCUSED PERFORMANCE

In addition to the specific provisions of this Agreement, performance by any party shall not be in default where delays or default is due to war, insurrection, strikes, walkouts, riots, floods, drought, earthquakes, fires, casualties, acts of God, governmental restrictions imposed or mandated by governmental entities other

than the parties, enactment of conflicting state or federal laws or regulations, new or supplementary environmental regulation, litigation or similar bases for excused performance that are not within the reasonable control to the party to be excused.

5.8 SEVERABILITY

If any one or more of the provisions contained in this Agreement is invalid, illegal or unenforceable in any respect, the validity, legality and enforceability of the remaining provisions of the Agreement will not be affected or impaired in any way.

5.9 INTEGRATION

This Agreement is the entire agreement of the parties on its subject and supersedes any prior discussions or agreements regarding the same subject.

6. TERMS OF AGREEMENT

- 6.1 The term of the Agreement shall be from the date of execution until the completion of the PROJECT, but not to exceed five (5) years.
- 6.2 This Agreement may be amended or extended for periods of up to one (1) year by mutual consent of the parties. It may be canceled or terminated for any reason by either party. Termination or cancellation shall be effective thirty (30) days after written notice to the other party, or at such time as the parties may otherwise agree. The parties shall, in good faith, agree to such reasonable provisions for winding up the PROJECT and paying for any additional costs as necessary.

IN WITNESS WHEREOF, the parties hereto have set their hands as of the day and year hereinafter written.

CITY OF TIGARD, OREGON

WASHINGTON COUNTY, OREGON

MAYOR

CHAIR, BOARD OF COUNTY
COMMISSIONERS

DATE: _____

DATE: _____

ATTEST:

CITY RECORDER

RECORDING SECRETARY

APPROVED AS TO FORM:

APPROVED AS TO FORM:

CITY ATTORNEY

COUNTY COUNSEL



S.W. SCHOLLS FERRY ROAD WIDENING ROY ROGERS ROAD TO TEAL BOULEVARD

Map Date: March 29, 2012
Prepared by: EDF

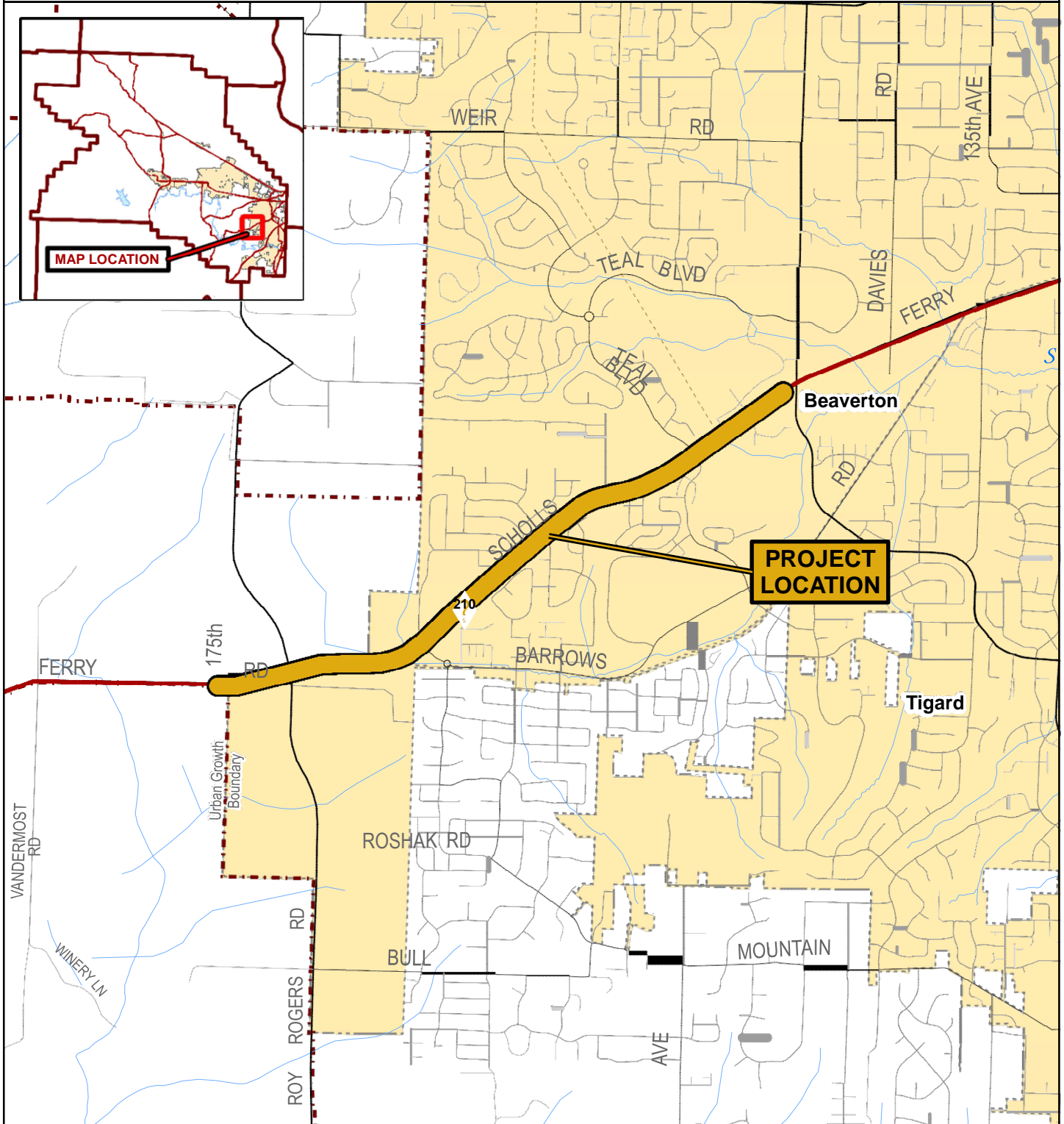
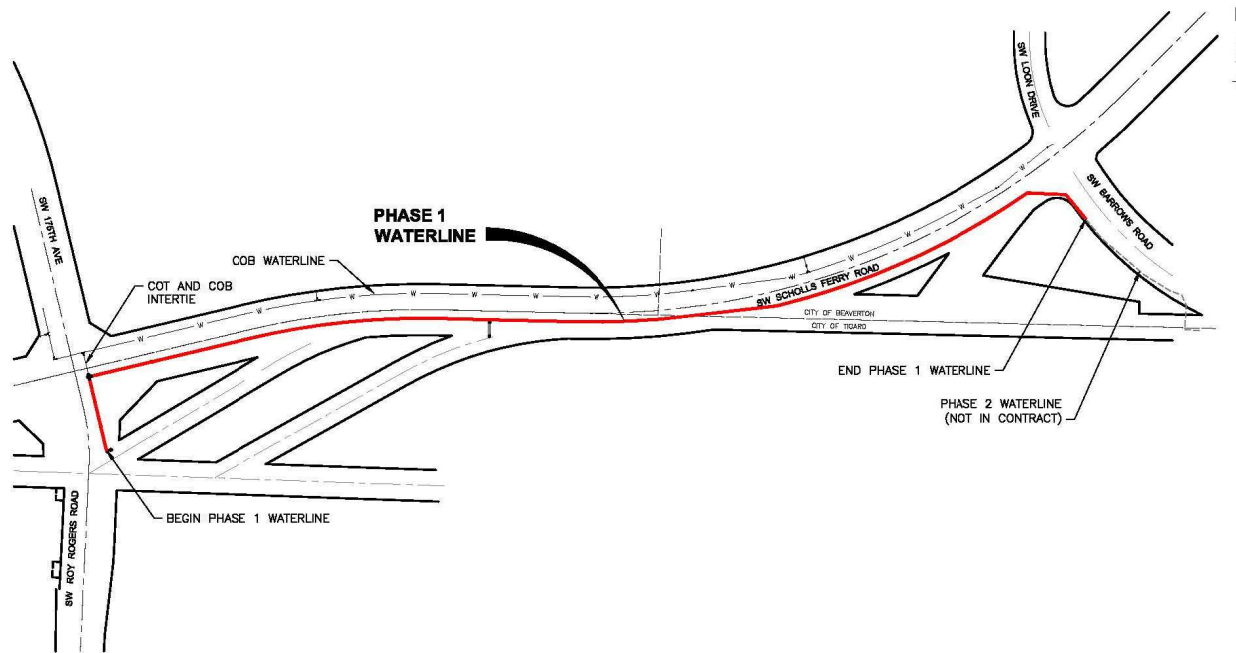


Exhibit B



VICINITY MAP
NO SCALE